



Headquarters Policy Flash

FLASH 2002-16

DATE: March 28, 2002
TO: Procurement Directors
FROM: Office of Procurement and Assistance Policy, ME-61
Office of Procurement and Assistance Management

SUBJECT: 1. **Interim Final Rule - National Industrial Security Program**
2. **Final Rule - Administrative Amendment of the Department of Energy Acquisition Regulation**

SUMMARY: This Policy Flash transmits a summary of two new Rules recently published in the Federal Register. The Rules are also attached to the Flash on the Professionals Homepage.

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1. Interim Final Rule - National Industrial Security Program

This interim final rule, published at page 14873 of the March 28, 2002 issue of the *Federal Register*, completes implementation of Executive Order 12829, National Industrial Security Program. That Executive Order requires agencies to ensure a uniform and simplified security system for contractors and others requiring access authorizations for classified national security or restricted atomic information.

A benefit of adopting the National Industrial Security Program is the elimination of the separate Department of Energy unique Foreign Ownership, Control, and Influence questionnaire, and associated solicitation provision and contract clause. Under the National Industrial Security Program all agencies use a Standard Form (SF) 328, "Certificate Pertaining to Foreign Interests," to gather information relative to foreign ownership, control, or influence. Instructions pertaining to use of the form are contained in a new solicitation provision titled "Facility Clearance." Instructions regarding the disclosure of changes in ownership during contract administration are now contained in a new paragraph (j) of the "Security" clause.

The changes also implement Section 828 of the National Defense Authorization Act for Fiscal Year 1997, which authorized the Secretary of Energy to waive the prohibition on award of a national security contract to an entity controlled by a foreign government if an environmental restoration requirement is involved.

The Interim Final Rule is effective May 28, 2002. At that time, it will replace Acquisition Letters 97-03, "Prohibition on Contracting with Entities Controlled by Foreign Governments"(National Security Program Contracts), and 99-03, "Foreign Ownership, Control, or Influence."

Public comments are due April 29, 2002. For further information on this Rule, contact Richard Langston at 202-586-8247 or via e-mail at richard.langston@hq.doe.gov.

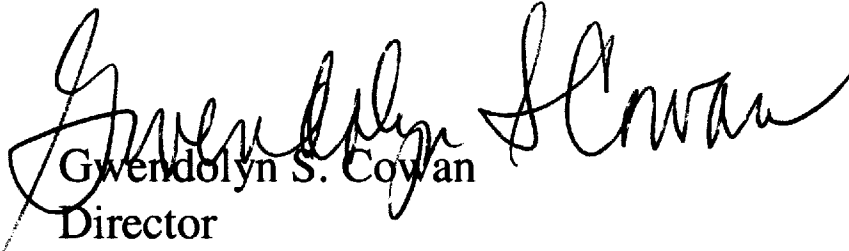
2. Final Rule - Administrative Amendment of the Department of Energy Acquisition Regulation

This final rule, published at page 14869 of the March 28, 2002 issue of the *Federal Register*, makes several technical and administrative changes to the Department of Energy Acquisition Regulation.

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They include revising and expanding definitions to distinguish the National Nuclear Security Administration (NNSA) as an agency within the DOE; acknowledging the Administrator of the NNSA as an agency head; and recognizing the Senior Procurement Executives for DOE, the NNSA, and the Federal Energy Regulatory Commission (FERC). Additional changes include removing obsolete coverage; renumbering and updating certain parts of the regulation to conform with the Federal Acquisition Regulation (FAR); and correcting typographical errors.

For further information on this Rule, contact Denise Wright at 202-586-6217 or via e-mail at denise.wright@pr.doe.gov



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Director

cc:
PPAG Members